

Dec-09-03 04:41pm From-Congressman Ciro D Rodriguez

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Congress of the United States

Washington, DC 20515

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December 9, 2003

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Federal Communications Commission
Office of the Secretary*MB merged (DireTV)
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The Honorable John Ashcroft
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Michael Powell
Chairman
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

The Honorable Kathleen Abernathy
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

The Honorable Jonathan Adelstein
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

The Honorable Kevin Martin
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

The Honorable Michael Copps
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

RE: News Corporation Acquisition of DirecTV, FCC Docket 03-124

Dear Attorney General Ashcroft, Chairman Powell, and Commissioners:

On behalf of the Congressional Hispanic Caucus (CHC), and the millions of Americans we represent, we write to express our opposition to the proposed acquisition of DirecTV by News Corporation. The potential merger of these two companies will place an unprecedented amount of control over an entire media enterprise – from production of content to its distribution – into the hands of a single corporation. We urge your opposition to this proposal for increased concentration of ownership of our nation's media market.

We have considered this merger for nearly a year, hearing from a multitude of stakeholders and interested parties, and have come to the unanimous conclusion that this merger is against the public interest, including the interest of the nation's Latino population. In our analysis of this merger, we examined how it would result in complete vertical integration of ownership of media production and distribution and the consolidation of control over local programming under a national corporation. Per our unique role as members of the CHC, where our mission is to voice and advance issues affecting Latinos in the United States and Puerto Rico, we made particular note of the consequence of the proposed merger on the Latino community.

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At the outset, we wish to acknowledge that subsidiaries of the News Corporation have developed respectable track records at promoting diversity within the ranks of employees through recruitment and apprenticeship programs. While Latinos remain absent from the highest levels of leadership throughout the companies and its subsidiaries, Fox Entertainment Group and Fox Television in particular have demonstrated a growing commitment to ensuring that there are increasing numbers of Latinos in positions of creative responsibility and leadership. Unfortunately, these positive aspects are outweighed by the negative impacts from other activities of News Corporation.

The Fox News Channel, one of News Corporation's most prominent and successful enterprises, and one that has a growing influence over public opinion, has abdicated its responsibility as a news network, particularly when discussing issues surrounding the Latino and immigrant community. By concentrating ownership and control over the channels that distribute local and national news programming into the hands of its parent organization, the FCC would be creating the opportunity for Fox News to expand on the damage it has caused to the Latino community when it decides to promote its news programming at the expense of local news coverage.

By definition a news organization is responsible for ensuring that its stories are shown in a truthful, fair, and balanced manner. The decision to disregard this standard of journalism by the Fox News Channel is extremely disturbing to our constituencies and us. We understand the Fox News Channel is just one subsidiary of an entire media empire, however, as representatives of the nation's 40 million Latinos, we would be remiss in our responsibilities if we did not address this glaring misrepresentation of our community. We cannot in good conscious support a merger which would allow exclusive control over more distribution channels through DirecTV - creating additional profit for News Corporation - to come into the hands of those who have shown such blatant disregard for the well being of our constituents and the country as a whole. Because of this, we cannot help but conclude that the Fox News Channel and in turn, News Corporation, will continue in their attempts to profit from immigrant-bashing without regard to the profoundly damaging bearing this has on the inclusive spirit of our nation of immigrants, and to promote this kind of programming at the expense of more accountable, locally-produced, news coverage.

To compound the concern, we are troubled by the report from independent Fox affiliates and National Association of Station Affiliates that the Fox Television network is seeking to wrest control over digital spectrum from its affiliates. Local control over programming, and the right to control the bandwidth carrying such programming, is vital if we are to have television that reflects the diversity of the American populace. When a local Fox affiliate wants to showcase community programming it should be able to without having to negotiate for time from the national network with which it is affiliated.

In our analysis of whether concentrated ownership of control over local media outlets would improve or worsen how the media is serving the Latino community, we came upon an example of how News Corporation is likely to treat local and Latino-focused programmers who are seeking to create better opportunities for Latino voices and talent. We were dismayed by the


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experience of SiTV – an English-language, Latino-themed network – in its negotiations with DirecTV and with Fox Cable Networks. SiTV has been attempting to negotiate carriage on DirecTV without success, despite their success at being carried by other cable providers. DirecTV failed to understand that the programming offered by these networks is more appropriately offered on the basic or extended package of channels and should not be segregated to a specialized Spanish-language tier, which often incurs greater cost to the customer. Similarly, DirecTV has provided the same inadequate treatment to LATV, another Latino-themed, bilingual network currently broadcasting in Los Angeles.

Even more troubling, in anticipation of the merger, SiTV began carriage-related discussions with Fox Cable Networks. After several months of reviewing SiTV's programming and business plans, Fox let SiTV know that it had its own plans to create a Latino focused network; yet News Corporation officials were not forthcoming to us with this information, which was highly relevant to our deliberations. If this experience is an indication of how Fox/News Corporation will treat new entrants once it controls DirecTV's distribution channels, it is apparent that News Corporation would rather do business with itself to create a new national network from scratch rather than carry already established, locally relevant or minority-owned networks that News Corporation does not own. We fear this anti-competitive behavior could worsen once News Corporation has exclusive control over DirecTV resulting in a loss of diverse and local programming serving the Latino community.

We understand from news reports sourced by anonymous FCC employees that the Commission is poised to approve this merger, with a few conditions to limit News Corporation's ability to unfairly treat networks it does not own. News Corporation has proven that it is likely to use control over DirecTV in a self-dealing way that benefits networks it owns rather than any new entrants. Moreover, the deal creates a great risk to the Latino community, which will lose what little locally produced, diverse news and entertainment programming that currently exists. We urge you to reconsider your position, and deny the acquisition in the name of the public interest and the negative impact it will have on the Latino community.

Sincerely,



Ciro Rodriguez
Chairman
Congressional Hispanic Caucus (CHC)